



Along the new Silk Roads

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Along the new Silk Roads-Regional agreements such as the BRI could embrace greater trade liberalisation goals

- At the recent Paris Peace Forum commemorating the end of World War I, the heads of the International Monetary Fund and the World Bank made the case for a more inclusive multilateralism.
- Drawing comparisons between 1914 and today's situations in terms of inequalities, they warned against the temptation of a divisive globalisation which could only benefit the wealthiest.
- China's discourse on a new "connected" multilateralism, through the Belt and Road Initiative (BRI), is building upon the same inclusive project now led by a non-Western and non-democratic superpower.
- There is indeed an ambition to influence the world — if not directly control it — by making the rules on which it functions.
- There is more to the BRI than the six economic corridors spanning Asia, Europe and Africa, of which the \$50 billion China-Pakistan Economic Corridor (CPEC) is perhaps the most controversial.
- The BRI "shared interest" and "shared growth" hence coexist with Marxism-Leninism and "capitalism with Chinese characteristics" in a country now said to be more trade-friendly than its protectionist American rival, the U.S. Beijing has never been afraid of contradictions in terms and this capacity to 'Sinicise' concepts is a signature trait.
- The BRI is a political project and a Chinese one no matter the number of other partners joining the effort and participating to its funding.

Normative yet not legal

- In this regard, the normative framework put in place by Beijing plays an interesting role.
- These norms manifest themselves in the form of guiding principles, declarations, general agreements and other communication tools including the hardly studied "Digital Silk Road" envisaging "innovation action plans for e-commerce, digital economy, smart cities and science

and technology parks”.

- They constitute a normative discourse, a form of behaviour, a standard to abide by, but are not legally binding yet.
- The absence of law is actually partial and temporary.
- China is preparing for the domestic resolution of BRI disputes with the creation by the Supreme People’s Court of two dedicated branches of the China International Commercial Court, one in Shenzhen to tackle the Maritime Road disputes, and one in Xi’an to settle overland Belt issues.
- In addition, the Hong Kong International Arbitration Centre has specific BRI arbitration clauses and administered arbitration rules.
- Naturally, investor-state disputes could also be settled on the basis of China’s investment agreements, nationally or internationally, in a given arbitration forum — for example, the World Bank-sponsored International Centre for Settlement of Investment Dispute (ICSID).

Institutional strategies

- The institutional setting of the BRI is also rather light.
- Joint committees are put in place and the existing institutions mobilised from the Shanghai Cooperation Organisation to the Asian Infrastructure Investment Bank (AIIB), which is contributing to the BRI despite the rather distant position of some of its members and India in particular, which is the largest recipient of AIIB funding.
- In this context, China is not challenging the existing institutional set-up or proposing something different than what exists in the Bretton Woods Institutions.
- From the functioning of the banks to their advisory committees, the same structure and often the same people are found.
- However, with the world trading system passing through a turmoil, the possibility of regional trade agreements or amorphous legal devices such as the BRI embracing greater trade liberalisation goals cannot be entirely ruled out.
- A failure to resolve the WTO Appellate Body crisis or any consequent weakening of the multilateral dispute resolution process could present an opportunity for purely nationalistic initiatives to transmute and assume larger objectives.